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5 E-FILED 10/27/08
6 JS-6
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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

10
11 OSCAR RUIZ, PEDRO
12 GONZALEZ, EVERARDO
13 GARCIA, JORGE FRIAS, each as
14 an Individual and on Behalf of those
15 similarly situated,

16 Plaintiffs,

17 TRUGREEN LANDCARE, LLC, a
18 Delaware Limited Liability Company;
19 TRUGREEN LANDCARE, a
20 California General Partnership,
TRUGREEN COMPANIES, LLC a
Limited Liability Company of
unknown origin, TRAVELERS
CASUALTY AND SURETY
COMPANY OF AMERICA, a
Connecticut Corporation, and DOES
1 through 10.

21 Defendants.

22 Case No.: EDCV 06-0907 PSG (CWx)

23 **[PROPOSED] ORDER GRANTING
24 FINAL APPROVAL OF CLASS
ACTION SETTLEMENT AND
25 APPROVING ATTORNEYS' FEES,
26 COSTS AND SERVICE AWARDS**

27 Complaint Filed: July 12, 2006

28 On May 22, 2008 the Court entered an Order ("the Order") (Doc 73)
Preliminarily Approving the proposed Class Action Settlement, Directing
Distribution of Class Notice and Setting a Settlement Hearing for October 27, 2008
at 1:30 p.m. in the above-entitled Court, located at 255 E. Temple St., Los Angeles,
California 90012 ("Settlement Hearing").

Pursuant to the Order, in advance of the Settlement Hearing the Parties filed
Confidential Memoranda detailing the evidence the Parties relied on in reaching

1 their determination of the merits and value of the case and any side agreements
 2 reached between the parties (other than the Class Action Settlement Agreement
 3 previously submitted). Plaintiffs filed a memoranda justifying the award of
 4 Plaintiffs' counsel's attorneys' fees and expenses and incentive payments to the
 5 Named Plaintiffs.

6 Pursuant to the Order, the Settlement Administrator undertook certain notice
 7 and claim procedures as set forth in the Settlement Agreement and in the Order,
 8 including but not limited to distribution notice of the settlement and Settlement
 9 Hearing, establishment of a bilingual call center, distribution of a reminder
 10 postcard and documentation of class members' claims. The Settlement
 11 Administrator filed a declaration and a supplemental declaration establishing
 12 compliance with the Order.

13 The class notice advised class members of their right to object to all or any
 14 aspect of the settlement, and instructed them as to how to submit objections. No
 15 class members objected to any aspect of the settlement.

16 On October 27, 2008 the Parties appeared for the Settlement Hearing. The
 17 purpose of the Settlement Hearing was to determine all necessary matters
 18 concerning the Settlement, including: whether the Settlement on the terms and
 19 conditions provided is fair, adequate and reasonable and should be finally
 20 approved by the Court; whether a Judgment should be entered herein; whether the
 21 Court should finally approve the attorneys fees and reimbursement of expenses
 22 awarded to Class Counsel; and whether the Court should finally approve the
 23 service payment awards to the Class Representatives.

24 At the Settlement Hearing the Parties requested the Court grant final
 25 approval of the Settlement Agreement. Concurrently with final approval, Plaintiffs
 26 request the Court approve and award \$355,733 in attorneys' and \$17,309.18 in
 27 costs to be paid to Class Counsel Donahoo & Associates. Class Counsel also seeks
 28 approval of incentive awards on behalf of the Class Representatives in the amount
 of \$15,000 to Oscar Ruiz; \$5,000 to Pedro Gonzalez; \$5,000 to Everardo Garcia;

1 and \$5,000 to Jorge Frias. The proposed payments are pursuant to the Class
2 Action Settlement preliminarily approved by the Court May 22, 2008. Defendants
3 do not oppose the request. After notice to the class, no Class Members have
4 objected to the requests.

5 The Court having read and considered the Joint Stipulation of Settlement
6 and Release Between Plaintiffs and Defendants (“Settlement Agreement”) and all
7 of the other supporting papers submitted by the Parties, including the Confidential
8 Memoranda submitted by the Parties, Plaintiffs’ memorandum justifying the award
9 of Plaintiffs’ counsel’s fees, expenses and incentive awards to the
10 Named Plaintiffs, and the Declarations of John Keane from Settlement
11 Administrator Rosenthal & Co.;

12 The Court having heard oral argument of the parties and any interested
13 persons;

14 The Court having found that substantial and sufficient grounds exist for
15 entering this order;

16 For GOOD CAUSE SHOWN, the Court finds that the Settlement on the
17 terms and conditions provided is fair, adequate and reasonable, and that no
18 objections to the settlement have been made. Therefore, the Court hereby
19 APPROVES the Settlement on the terms and conditions provided in the Settlement
20 Agreement and the Order.

21 The Court finds Plaintiffs’ application for attorneys’ fees, costs and
22 incentive awards is appropriate in light of the work undertaken and benefit
23 provided to the Settlement Class. Therefore, the application is APPROVED. Class
24 Counsel Donahoo & Associates is awarded Three Hundred Fifty-Five Thousand
25 Seven Hundred Thirty-Three Dollars (\$355,733) as reasonable attorneys’ fees and
26 Seventeen Thousand, Three Hundred Nine 18/100 Dollars (\$17,309.18) as
27 reimbursable costs. The amounts shall be paid pursuant to the Settlement
28 Agreement.

1 Plaintiffs' proposed enhancement of \$15,000 to be paid to class
2 representative Oscar Ruiz is APPROVED. Enhancements of \$5,000 each to be
3 paid to class representatives Pedro Gonzalez, Everardo Garcia and Jorge Frias are
4 likewise APPROVED.

5 IT IS HEREBY FURTHER ORDERED that:

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7 1. The First Amended Complaint is dismissed with prejudice.
8 2. Without affecting the finality of this Order, the Court shall retain continuing
9 jurisdiction over this action and the parties, including all Class Members, and over
10 all matters pertaining to the implementation and enforcement of the terms of the
11 Settlement Agreement. Except as provided to the contrary herein, any disputes or
12 controversies arising with or with respect to the interpretation, enforcement, or
13 implementation of the Settlement Agreement shall be presented to the Court for
14 resolution.
15 3. Judgment shall be entered in accordance with the terms of this Order.

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17 **IT IS SO ORDERED.**

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19 Dated: 10/27/08 By: PHILIP S. GUTIERREZ
20 United States District Court Judge